

and Warren) ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone. See 60 FR 33742. The USEPA is removing this final rule due to adverse comments received on this action. In a subsequent final rule, USEPA will summarize and respond to the comments received on this determination.

EFFECTIVE DATE: August 25, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353-5089.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, and Volatile organic compounds.

Dated: August 11, 1995.

Valdas V. Adamkus,
Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q

Subpart KK—Ohio

2. Section 52.1885 is amended by removing paragraph (w).

[FR Doc. 95-21189 Filed 8-24-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 272

[FRL-5224-4]

Hazardous Waste Management Program: Incorporation by Reference of Approved State Hazardous Waste Program for Arizona

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the U.S. Environmental Protection Agency (EPA) may grant final authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of Title 40 of the Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA section 3008. EPA intends to incorporate by reference the Arizona authorized State program in 40 CFR part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to Arizona's program.

DATES: This document is effective October 24, 1995 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on this action must be received by close of business September 25, 1995. The incorporation by reference of certain Arizona statutes and regulations was approved by the Director of the Federal Register as of October 24, 1995 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Written comments should be sent to April Katsura, U.S. EPA Region IX (H-4), 75 Hawthorne Street, San Francisco, California 94105, (415) 744-2030.

FOR FURTHER INFORMATION CONTACT: April Katsura, U.S. EPA Region IX (H-4), 75 Hawthorne Street, San Francisco, California 94105, (415) 744-2030.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of RCRA, 42 U.S.C. 6926, allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's **Federal Register** notice is to incorporate by reference EPA's approval of Arizona's base hazardous waste management program and its revisions to that program.

Effective December 19, 1994 (see 59 FR 52918), EPA incorporated by reference Arizona's then authorized hazardous waste program. Effective June 12, 1995 (see 60 FR 18356), EPA granted authorization to Arizona for additional program revisions. In this document, EPA is incorporating the currently authorized Arizona hazardous waste program in subpart D of part 272.

EPA provides notice of its approval of State programs in 40 CFR part 272, and incorporates by reference therein the

State statutes and regulations that EPA will enforce under section 3008 of RCRA. This effort will provide clearer notice to the public of the authorized program in Arizona. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98-616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized Arizona program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in Arizona, the status of Federally approved requirements of the Arizona program will be readily discernible.

The Agency will only enforce those provisions of the Arizona hazardous waste management program for which authorization approval has been granted by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes her final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogs.

Arizona Authorized Hazardous Waste Program

EPA is incorporating by reference the Arizona authorized hazardous waste program in subpart D to 40 CFR part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.151(b)(1); and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at 40 CFR 272.151(b)(4), (5), and (6), respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such enforcement actions, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the State authorized analogs to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of

enforcement such particular, authorized Arizona enforcement authorities.

Section 272.151(b)(2) of 40 CFR lists those authorized Arizona authorities that are part of the authorized program but are not incorporated by reference.

Some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C (see 40 CFR 271.1(i)). As a result, State provisions which are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in 40 CFR part 272. Section 272.151(b)(3) of 40 CFR lists for reference and clarity the Arizona statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference today. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

HSWA Provisions

As noted above, the Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are immediately effective in Arizona and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supercedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (see 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to 40 CFR part 271. EPA expects that the States will modify their programs substantially and repeatedly. Instead of amending 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA 3006(g), EPA will wait until the State receives

authorization for its analog to the new HSWA provision before amending the section of 40 CFR part 272 applicable to the State. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions adopting HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action is intended to incorporate by reference the decisions already made to authorize Arizona's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 8, 1995.

John Wise,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAM

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart D is amended by revising § 272.151 to read as follows:

§ 272.151 Arizona State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Arizona has final authorization for the following elements as submitted to EPA in Arizona's base program application for final authorization which was approved by EPA effective on December 4, 1985. Subsequent program revision applications were approved effective on October 7, 1991, September 11, 1992, January 22, 1993, December 27, 1993, and June 12, 1995.

(b) *State Statutes and Regulations.*

(1) The Arizona statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(i) EPA Approved Arizona Statutory Requirements Applicable to the Hazardous Waste Management Program, June 1995.

(ii) EPA Approved Arizona Regulatory Requirements Applicable to the Hazardous Waste Management Program, June 1995.

(2) The following statutes and regulations concerning State enforcement, although not incorporated by reference, are part of the authorized State program:

(i) *Arizona Laws Relating to Environmental Quality*, 1993 edition, reprinted from *Arizona Revised Statutes*, Title 49, Sections 49-141 through 49-144; 49-261 through 49-265; 49-287; 49-923 through 49-926; 49-928; and 49-943.

(ii) *Arizona Administrative Code*, Title 18, Chapter 8, December 31, 1994, Sections R18-8-260.D; R18-8-271.F through R18-8-271.Q; and R-18-8-280.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not

part of the authorized program, and are not incorporated by reference:

(i) *Arizona Laws Relating to Environmental Quality*, 1993 edition, reprinted from *Arizona Revised Statutes*, Title 49, Sections 49-901 through 49-905; 49-922.01; 49-927; 49-929 through 49-942; and 49-944.

(ii) *Arizona Administrative Code*, Title 18, Chapter 8, December 31, 1994, Sections R18-8-261.J; R18-8-261.L; R18-8-269; and R18-8-270.G.

(4) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region IX and the Arizona Department of Environmental Quality, signed by the EPA Regional Administrator on June 20, 1991, is referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(5) *Statement of Legal Authority*. "Attorney General's Statement for Final Authorization", signed by the Attorney General of Arizona on September 13, 1984, and revisions, supplements and addenda to that Statement dated November 22, 1989, October 31, 1990, August 23, 1993 (two documents), and February 3, 1995, are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Program Description*. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to Part 272 is amended by revising the listing for "Arizona" to read as follows:

Appendix A to part 272—State Requirements

* * * * *

Arizona

The statutory provisions include:
Arizona Laws Relating to Environmental Quality, 1993 edition, reprinted from *Arizona Revised Statutes*, Title 49, Sections 49-921 and 49-922. Copies of the Arizona statutes can be obtained from the State Bar of Arizona, 111 West Munroe, Suite 1800, Phoenix, Arizona 85003-1742.

The regulatory provisions include:
Arizona Administrative Code, Title 18, Chapter 8, December 31, 1994, Sections R18-8-260.A through R18-8-260.C, R18-8-260.E through R18-8-260.H; R18-8-261.A through R18-8-261.I; R18-8-261.K; R18-8-262; R18-8-263; R18-8-264; R18-8-265; R18-8-266; R18-8-268; R18-8-270.A through R18-8-270.F; R18-8-270.H through R18-8-270.Q; and R18-8-271.A through R18-8-271.E. Copies of the Arizona regulations can be obtained from the Arizona Secretary of State,

Publications, Notary, Charitable Solicitation & Telemarketing Division, 1700 West Washington, 7th Floor, Phoenix, Arizona 85007-2808.

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[FR Doc. 95-21200 Filed 8-24-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87-266, FCC 95-357]

Streamlined Section 214 Authorization for Stand-alone Cable Systems

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: Section 214 of the Communications Act requires local exchange telephone companies (LECs) to obtain authorization from the Federal Communications Commission before constructing or acquiring a cable system in their service territories. Although section 613(b) of the Act generally prohibits LECs from providing video programming directly to subscribers in their service areas, various court decisions have enjoined the Commission from enforcing this telco-cable cross-ownership ban against virtually all LECs. This order concludes that it is in the public interest to streamline the section 214 process with respect to those LECs against whom the Commission is not enforcing the cross-ownership ban that seek authorization to construct facilities to provide cable service in their service areas on a stand-alone basis.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mark S. Nadel, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1594.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collections of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Room 234, Washington, DC

20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Background

In 1970, the Commission concluded that section 214 of the Act requires that a LEC obtain Commission authorization before constructing or operating a cable system in its service territory. However, under Commission rules enacted in 1970 and later under section 613(b) of the Cable Communications Policy Act of 1984, LECs were generally prohibited from providing video programming directly to subscribers in their telephone service areas.

After this cross-ownership ban was found to violate the First Amendment and the Commission was enjoined from enforcing it against virtually all LECs, the Commission issued Telephone Company-Cable Television Cross-Ownership Rules, sections 63.54-63.58, Fourth Further Notice of Proposed Rulemaking, CC Docket No. 87-266, 10 FCC Rcd 4617, 60 FR 8996 (Feb. 16, 1995), to consider how current statutory provisions, including section 214, should apply to a LEC's provision of video programming to subscribers in its service area. Subsequently, to supplement the record on certain particular issues, Commission staff sought additional comment, *inter alia*, on whether the Commission should grant blanket section 214 authorization to such LECs for construction or acquisition of cable facilities in their service areas. Public Notice, DA 95-665, 60 FR 17763 (Apr. 7, 1995). Comment was also sought on whether such blanket section 214 authorization should apply both when the cable television facility is used also to provide telephone service and when the facility is used to provide only cable television services. Finally, comment was sought on what, if any, other circumstances warrant granting consideration of such blanket section 214 authorization when a telephone company provides video programming in its service area, on any methods for streamlining the section 214 application process, and on how the relevant rules should be amended.

Summary of Fourth Report and Order

This is a summary of the Commission's Fourth Report and Order in Telephone Company-Cable Television Cross-Ownership Rules §§ 63.54-63.58, CC Docket No. 87-266; FCC 95-357, Adopted: August 11, 1995 and Released: August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M